



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
LAWRENCE D. BROWN, JR,)

For Appellant: Lawrence D. Brown, Jr.
 in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Lawrence D. Brown, Jr., against a proposed assessment of additional personal income tax in the amount of **\$316.50** for the year 1977.

Appeal of Lawrence D..Brown, Jr.

The only issue is whether appellant qualified for head of household filing status in 1977.

Appellant was divorced prior to the appeal year. For 1977 appellant filed his return as a head of household. Appellant contends that one of his two daughters should be considered as the qualifying dependent. However, neither daughter lived in appellant's household for the entire taxable year. Based on these facts, respondent denied the claimed head of household status. Appellant's protest was denied and this appeal followed.

The term "head of household" is defined in section 17042 of the Revenue and Taxation Code,, which provides, in pertinent part:

For purposes of this part, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, and

(a) Maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of - -

(1) A son . . . [or] daughter ... of the taxpayer

In a number of prior appeals we have held that the statutory requirement that a household be provided for the "taxable year" means the taxpayer's entire taxable year. (Appeal of Harlan D. Graham, Cal. St. Bd. of Equal., Oct. 18, 1977; Appeal of Gwen R. Fondren, Cal. St. Bd. of Equal., May 10, 1977; see also Cal. Admin. Code, tit. 18, reg. 17041-17043, subd. (B)(1).) In this appeal neither of appellant's daughters occupied his household for the entire taxable year. Although respondent's regulations make an exception in the case of a "temporary absence due to special circumstances," the record in this appeal does not indicate the existence of any special circumstances. Therefore, appellant did not qualify for head of household status in 1977. Accordingly, respondent's action in this matter must be sustained.

Appeal of Lawrence D. Brown, Jr.

O R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY **ORDERED**, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Lawrence D. Brown, Jr., against a proposed assessment of additional personal income tax in the amount of \$316.50 for the year 1977, be and the same is hereby sustained.

Done at Sacramento, California, this 23rd day
of June , 1981, by the State Board of Equalization,
with Board Members Mr. Dronenburg, Mr. Reilly, Mr. Bennett
and Mr. Nevins present.

Ernest J. Dronenburg, Jr., Chairman

George R. Reilly _____, Member

William M. Bennett _____, Member

Richard Nevins, Member

_____, Member